

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO



NOTICE FROM THE CLERK  
NO. 01-06

IN THE MATTER OF PROTECTION OF JURORS' EMPLOYMENT  
(supersedes Notices Nos. 95-13, 00-17, 00-18, and 01-02)

The law of the United States of America, in 28 U.S.C. § 1875, and of the Commonwealth of Puerto Rico, 29 L.P.R.A. § 152 and 33 L.P.R.A. § 4445, impose civil liability and criminal penalties to any employer who discharges, threatens to discharge, intimidates, harasses or coerces any employee by reason of such employee's jury service, or the attendance or scheduled attendance in connection with such service, in any court of the United States.

Any employer who violates the provisions of 28 U.S.C. § 1875:

- (1) shall be liable for damages for any loss of wages or other benefits suffered by an employee by reason of such violation;
- (2) may be enjoined from further violations of this section and ordered to provide other appropriate relief, including but not limited to the reinstatement of any employee discharged by reason of his jury service; and,
- (3) shall be subject to a civil penalty of not more than \$1,000.00 for each violation as to each employee.

Pursuant to 29 P.R. Laws Ann. § 152 any employer who dismisses a person for having served as a juror, or refuses to reinstate him for this reason, or reinstates him in a position of an inferior category, status, or retribution than what he held at the moment he started to serve as a juror, shall be liable for a sum equal to twice the amount of damages caused by his action to this person, or for a sum of not less than \$100.00 nor more than \$1,000.00 at the discretion of the court, if the monetary damages cannot be determined.

As per 33 P.R. Laws Ann. § 4445, every employer who authorizes, consents or carries out the discharge, and every person who threatens to discharge, or discharges, removes, reduces the salary, demotes or imposes or attempts to impose, onerous working conditions on an employee, based on the fact that said employee has been summoned to serve or is serving, or has served as a juror in a court of justice in Puerto Rico, state as well as federal, or every employer who refuses to reinstate said employee, where the latter has requested his reinstatement within 48 hours after having ceased serving as a juror, shall be punishable by imprisonment not exceeding six months or a fine not exceeding \$500.00, or both at the discretion of the court.

The purpose of the federal legislation, Protection of Jurors Employment Status Act, includes both the protection of the status of employment after jury duty as well as during the period of jury service, Costello v. United States, 350 U.S. 359, 362 (1956). Thus, among others, courts have determined it is unlawful

(continues on reverse)

for an employer to:

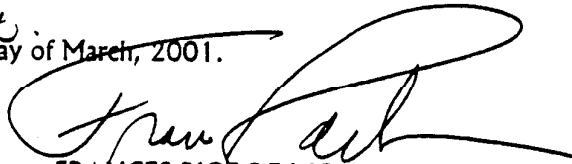
- (1) ... react with hostility to the news of the employee's jury duty, withdraw customary assistance to the employee; criticize, reprimand or discharge the employee without cause, but rather for reasons related to the jury service.<sup>1</sup>
- (2) ... pressure an employee to submit a materially misleading statement to the court in an attempt to avoid jury duty.<sup>2</sup>
- (3) ... coerce an employee into requesting postponement of the jury duty until the employee has earned sufficient vacation time for it.<sup>3</sup>
- (4) ... cut back the work hours, change work assignments or conditions and/or discharge an employee serving on jury duty because his absences upset the employer's work schedule.
- (5) ... obligating jurors to work overtime after jury service hours or assigning jurors to work on their personal days from jury duty.<sup>5</sup>

An individual claiming that his/her employer has violated any of the provisions set forth above may request that this court, upon finding probable merit in such a claim, appoint an attorney to represent such individual in any action in the District Court necessary to the resolution of such claim.

In any action or proceeding under any of the aforementioned provisions brought by a juror with retained counsel, the court may award a reasonable attorney's fee as part of the costs. The court may tax a defendant employer, as costs payable to the court, the attorney's fees and expenses incurred on behalf of a prevailing employee. The court may award a prevailing employer a reasonable attorney's fees as part of the costs only if the court finds that the action is frivolous, vexatious, or brought in bad faith.

BY ORDER OF THE COURT.

In San Juan, Puerto Rico, this 2<sup>th</sup> day of March, 2001.



FRANCES RIOS DE MORAN, ESQ.  
CLERK OF COURT

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<sup>1</sup> Hill v. Winn-Dixie Stores Inc., 934 F.2d 1518 (11<sup>th</sup> Cir. 1991).

<sup>2</sup> U.S.A. ex rel Perkins v. Sara Lee Corp., 839 F. Supp. 393 (W.D.Va. 1993), vacated on other grounds, 852 F.Supp. 1321 (1994) (stipulation of dismissal vacating judgment).

<sup>3</sup> Jones v. Marriott Corp., 609 F. Supp. 577 (D.D.C. 1985).

<sup>4</sup> In Re Webb, 586 F. Supp. 1480 (N.D. Ohio 1984).

<sup>5</sup> U.S.A. ex rel Madonia v. Coral Springs Partnership Ltd., 731 F.Supp. 1054, 1056 (S.D. Fla. 1990).